



DELBERT HOSEMAN  
*Secretary of State*

REQUEST FOR PROPOSAL: Lease of Office Space  
Jackson, Mississippi  
RFP Number: 06-06-13 Lease  
Proposal Due: June 28, 2013  
Contact Name: Phil Cumberland  
Contact Phone Number: 601-359-1552  
Contact E-mail Address: phil.cumberland@sos.ms.gov

---

The Mississippi Secretary of State (MSOS) seeks proposals for office space in Jackson, Mississippi. The MSOS requires the office space beginning January 21, 2014, for a five year term ending January 20, 2019, with option to renew for up to five (5) additional one-year terms.

Proposals must be submitted no later than June 28, 2013, 2:00 P. M. Respondents may elect to either mail or deliver their proposals to the Mississippi Secretary of State's Materials Management Division.

Mail to:  
Mississippi Secretary of State  
Attention: Phil Cumberland  
Post Office Box 136  
Jackson, MS 39205

Deliver to:  
Mississippi Secretary of State  
Attention: Phil Cumberland  
700 North Street  
Jackson, MS 39202

**1. TERMS AND CONDITIONS**

- 1.1 Proposer is expected to sign the Mississippi Department of Finance and Administration Bureau of Buildings, Grounds and Real Property Management (RPM) Lease Agreement (RPM 5) like the sample provided in Attachment A. If lease escalation is proposed, proposer is expected to sign RPM Standard Escalation Agreement like the sample provided in Attachment B (RPM 5A).
- 1.2 The MSOS reserves the right to reject any and all proposals and to waive all Informalities.
- 1.3 The MSOS reserves the right to make an award which is determined to be in the best interest of the State of Mississippi.
- 1.4 Proposer represents that it has not retained a person to solicit or secure a state contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, except as disclosed in the proposal.
- 1.5 Proposer represents that it has not violated, is not violating, and promises that it will not violate the prohibition against gratuities.

**2. VENDOR INSTRUCTION AND RESPONSE FORMAT**

- 2.1 Vendor Instruction
  - 2.1.1 Proposals must be received, in writing, by the office of the MSOS by the date and time specified. MSOS is not responsible for any delays in delivery or

- expenses for the development or delivery of proposal. Any proposal received after proposal opening time will be returned unopened.
- 2.1.2 To prevent opening of proposals by unauthorized individuals, all copies of the proposals must be sealed in a package. A label containing the information on the RFP cover page must be affixed to the package in a clearly visible location.
  - 2.1.3 Proposals or alterations by fax, e-mail or phone will not be accepted.
  - 2.1.4 Legibility, clarity and completeness of proposal are important and essential.
  - 2.1.5 Proposal must be signed by individual(s) legally authorized to bind the firm.
  - 2.1.6 Proposal must contain a statement that the proposal and the price(s) contained therein shall remain firm for a period of one hundred twenty (120) days.
  - 2.1.7 Three (3) copies of the proposal, including one (1) original, signed in ink, are to be submitted in a sealed envelope bearing the RFP number located on the first page of the RFP document.
  - 2.1.8 MSOS reserves the right to request additional information or clarification of a proposal.
- 2.2 Response Format: Written, sealed proposal must contain:
- 2.2.1 The required forms
    - 2.2.1.1 Conditions for Submittal of Lease Proposal, Attachment C (RPM2); and
    - 2.2.1.2 Conditions of Lease Proposal for New Construction, Attachment D (RPM 2A).
  - 2.2.2 Certification that the price submitted in response to the solicitation has been arrived at independently and without, for the purpose of restricting competition, any consultation, communication or agreement with any other bidder or competitor relating to those prices, the intention to submit a bid, or the methods or factors used to calculate the prices bid.
  - 2.2.3 Occupancy report with tenant mix, floor plan, and photos of interior and exterior of proposed space and plans and photos of exterior facade of planned renovations.

### **3. Requirements**

- 3.1 The proposed space must be within a walking distance of 4 blocks of the Heber Ladner Building, 401 Mississippi Street, Jackson, Mississippi, and in consideration of safety concerns of staff due to high traffic volume, shall be bound on the East by State Street and on the North by High Street.
- 3.2 Proposed space must be ADA compliant as defined by the Mississippi Department of Finance and Administration Bureau of Buildings, Grounds and Real Property Management Handicapped Accessibility Guidelines (Attachment E).
- 3.3 Proposed space must offer the minimum space and configuration or include Lessor build-out to accommodate MSOS needs as stated in this Request for Proposal.
- 3.4 Any special requirements or conditions must be clearly stated and included with the proposal.
- 3.5 Description of Suitable Space
  - 3.5.1 Size: Minimum of 25,000 rentable square feet.
  - 3.5.2 Configuration: Space configuration must contain:
    - 3.5.2.1 Layout: Configuration conducive to use as office space with appropriate office and public areas to conduct agency business.
    - 3.5.2.2 Use: Office space for all applicable MSOS divisions and support areas.

- 3.5.2.3 Electrical: Each area and separate rooms must have at minimum two (2) standard 110 electrical outlets and one (1) voice/data connection;
- 3.5.2.4 Security: On-site security services for inside & outside of the building.
- 3.5.2.5 Locks: Each suite and room must be secured by appropriate lock;
- 3.5.2.6 Staff lounges with appropriate appliances and plumbing for tenant use; if multiple floors proposed lounge must be on each floor;
- 3.5.2.7 Ground floor office space with reception area for guests
- 3.5.3 Aesthetics: Must be well maintained, aesthetically pleasingly and appropriate for professional office activities.
- 3.5.4 Janitorial: Must be included in the proposed rate; service schedule and level of services must be included in the proposal.
- 3.5.5 Parking: Parking must be included in the proposed rate. Parking must be available for a minimum of 100 agency staff within one block of proposed space and 3 to 5 curb side parking available for guests/clients .
- 3.5.6 Restrooms: At minimum one (1) men's restroom and one (1) women's restroom per floor, open to the public and ADA compliant. Number of stalls and/or urinals should be included with response.
- 3.5.7 Maintenance: Must be included in the proposed rate.
- 3.5.8 Signage:
  - 3.5.8.1 Must permit installation and/or display of MSOS signage street-side on building facade at street level to accommodate and direct guests/clients. Limitations, if any, should be stated in proposal response.
  - 3.5.8.2 If space is in multiple tenant building and/or floor, there must be a reception/security area and signage at each level to accommodate and direct guests.
- 3.5.9 Utilities: Must be included in the proposed rate.
  - 3.5.9.1 Water, sewer, power and gas utilities shall be available at site.
- 3.5.10 Voice / Data Infrastructure: Must be capable of connecting to the State's fiber network through the Mississippi Department of Information Technology
- 3.5.11 Data Center
  - 3.5.11.1 Dimensions – 750 sq. ft. min.
  - 3.5.11.2 Power – 127.5 Kilo Watts
  - 3.5.11.3 HAVC (2) 5-ton units with rooftop condensers. Air distribution within the DC is designed so cool air is supplied from the ceiling and from below the raised tile floor to maintain a constant 68-70 degree 0 humidity environment. All HVAC systems are regularly maintained as part of a service agreement, including 4x7 emergency services
  - 3.5.11.4 Fire Suppression – Datacenter level fire suppression.
  - 3.5.11.5 Security – Access Card and Back up Key Pad entry. Must log entry to Data center.
  - 3.5.11.6 Floor – 12 In. raised tile floor with 2 In. raised cable tracks from the base floor.
  - 3.5.11.7 Plugs – 1 220V socket for every 2 110V sockets
  - 3.5.11.8 Back-up Generator
    - 3.5.11.8.1 Generator – 500 gallon diesel generator capable of handling Data center power requirements on a 10 second pick up when power failure happens.

- 3.5.11.8.2 The generator needs to be in a secure location.
- 3.5.11.8.3 Multiple refueling contracts established.
- 3.5.11.8.4 Weekly testing of the generator conducted and logged.
- 3.5.11.8.5 Preventative maintenance schedule ensures reliable, long term power generation for facility's needs.

3.5.12 Additional value may be considered for the following:

- 3.5.12.1 Windows for rooms utilized as office(s) and conference room
- 3.5.12.2 Dedicated elevator for MSOS staff
- 3.5.12.3 Secured ID badge system
  - 3.5.12.3.1 Needs to have multiple zone capability
  - 3.5.12.3.2 Would prefer to have dual keypad/card sensor devices

3.5.13 Scoring will be rated based on responses meeting and/or exceeding the requirements listed in the RFP. Responses failing to meet a requirement will receive a "0" rating, while responses partially meeting a requirement will be rated as "1". A rating of "2" will be given to responses that simply meet the requirement and a rating of "3" will be awarded to responses that exceed the requirement. Ratings will be converted into points based on a conversion scale. 5 additional points will be given to each item met in section 3.5.12. Points for cost will be awarded based on a point scale from lowest cost per square foot (25 points) to highest cost per square foot (5 points). Points for requirements met, additional value, and cost will then totaled to determine the lowest and best proposal.

4. **SOLICITATION SCHEDULE**

The important date and times by which actions related to this RFP should be completed:

Date of Issuance	June 6, 2013
Questions from Proposers Due	Close of Business June 17, 2013
Answers to Proposers	No later than 2:00 PM June 20, 2013
Proposals Due	No later than 2:00 PM June 28, 2013
Proposal Evaluation	Estimated July 1, through July 5, 2013
Negotiation	Estimated July 15, through July 19, 2013
Award	Estimated July 31, 2013

RPM-5

New Lease No. \_\_\_\_\_

PPRB Date \_\_\_\_\_

LEASE AGREEMENT

State of Mississippi Standard Form

This Lease Agreement entered into on this the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, which is on or after the date the Public Procurement Review Board approved this Lease by and between \_\_\_\_\_, whose address is \_\_\_\_\_, (hereinafter referred to as "Lessor"), and the \_\_\_\_\_, whose address is \_\_\_\_\_, (hereinafter referred to as "Lessee"). The terms "Lessor" and "Lessee" shall include, whenever the context admits or requires, singular or plural, the heirs, legal representatives, successors and assigns of the respective parties.

## WITNESSETH

FOR AND IN CONSIDERATION of the rental, covenants and conditions hereinafter stipulated to be paid and performed by Lessee, Lessor does hereby demise and let unto Lessee and Lessee does hereby accept and let from Lessor, the following described property situated in the City of \_\_\_\_\_, County of \_\_\_\_\_, State of Mississippi, described as follows, to-wit:

SECTION 1. The primary term of this Lease (defined for the purpose of this Lease as that period of time for which rent is to be paid) shall be for \_\_\_\_\_, commencing on \_\_\_\_\_, and ending at 12:00 midnight on \_\_\_\_\_. The Lessor agrees that should the above described space not be prepared for occupancy per the specifications agreed between Lessor and Lessee by the first day of the primary term of this Lease, the rent will be prorated accordingly or the Lease may be voided at the option of the Lessee.

SECTION 2. The Lessee agrees to pay \_\_\_\_\_ Dollars (\$\_\_\_\_\_) per \_\_\_\_\_ to the Lessor for the demised premises, pursuant to the following schedule:

SECTION 3. The Lessee shall have, hold and use the demised premises for the purposes of conducting the business activities of \_\_\_\_\_.

SECTION 4. The Lessee will, at all times, attempt to act in a prudent manner to conserve the amount of utilities consumed. The Lessor shall furnish and pay for, as and when due, all utilities consumed or used incidentally to the demised premises, such as electricity, gas, water, sewer and all other public utilities of every nature, kind and description, or, only those utilities listed on the following lines:

SECTION 5. The Lessee will, at all times, take good and ordinary care and precaution for the preservation of the demised premises. The Lessor shall furnish the following janitorial services:

SECTION 6. The Lessor shall pay, during the term of this Lease and any extended term hereof, all state, county and city ad valorem taxes and special assessments assessed against the property herein demised excluding any such taxes as may be assessed against Lessee's fixtures and equipment used in said demised premises.

SECTION 7. In the event that escalations for Lessor's expenses are to be incorporated as a provision of this Lease, only those escalations listed, and under terms as described by the attachment of a "State of Mississippi Standard Escalation Agreement," will be acceptable.

SECTION 8. Any notice required to be given by either party to the other party under the terms of this Lease shall be served upon such party by United States Certified Mail, as follows:

To Lessor:

To Lessee:

SECTION 9. It is expressly understood and agreed that the Lessee's assumption of occupancy and the payment of rent is conditional on the receipt of Federal and/or State funds, and in the event of a discontinuance or decrease in Federal and/or State funds, and in the event of a discontinuance or decrease in Federal and/or State funds for any cause necessitating a reduction in the Lessee's staff or need for space, the Lessee's obligation for the payment of rent shall be diminished in proportion to the reduction in space without penalty or interest or the Lease may be terminated. The Lessee shall notify the Lessor at least thirty (30) days in advance of any reduction in space or termination of the Lease necessitated by the discontinuance or decrease in Federal and/or State funds.

SECTION 10. It is distinctly understood and agreed by and between the parties hereto that in the event space becomes available to the Lessee herein in any State-owned building, this Lease shall be terminated within thirty (30) days from and after the date of written notice of termination of said Lease by the Lessee to the Lessor and the terms contained herein shall become null and void without further consideration by Lessee.

SECTION 11. The Lessee shall not, without the previous consent in writing of the Lessor, assign this Lease or sublet the whole or any part of the demised premises or any part thereof to be used or occupied by others, which consent by Lessor shall not be unreasonably withheld. In the event Lessor consents to any such assignment or subletting, Lessee shall remain and continue primarily liable for the performance of the covenants and obligations on his part to be performed under this Lease during the primary or any extended term hereof.

SECTION 12. The Lessor agrees to keep the building improvements erected on the demised premises insured against loss or damage by fire and all standard extended coverage perils for the full, fair insurable value thereof in a solvent and responsible company or companies authorized to do business in the State of Mississippi. The Lessor agrees to hold Lessee harmless and indemnified against any liability for injury or death to any person or damage to property in or upon the leased premises not caused directly by an act or omission of the Lessee or employee, agent, or patron of the Lessee.

SECTION 13. At the expiration of the tenancy hereby created and any extended term thereof, Lessee shall surrender the leased premises in the same condition as the leased premises were in upon delivery of possession thereto under this Lease, reasonable wear and tear excepted, and damage by unavoidable casualty excepted. Lessee's obligation to observe or perform this covenant shall extend past the expiration or other termination of this Lease for not more than thirty (30) days. Any claims of Lessor against Lessee under this section must be delivered in writing to the Lessee as specified in Section 8 no later than thirty (30) days after the expiration or termination of this Lease.

SECTION 14. The Lessor covenants to keep and maintain, at Lessor's expense, said demised premises and facilities in a state of tenantable repair during the term of the Lease. Lessor shall not be called upon to make any such repairs occasioned by the acts of negligence of the Lessee, its agents, patrons, or employees, except where covered under Lessor's fire and extended coverage insurance. Lessor shall supply at Lessor's expense all filters, freon, and parts for the heating and cooling equipment and all bulbs, lamps, tubes and starters needed for light fixtures. All repairs at Lessor's expense shall include, but not be limited to (1) keeping the heating and cooling equipment operational so that temperatures remain between 68 and 78 degrees Fahrenheit; (2) maintaining elevators so as to operate safely; (3) maintaining all doors, locks and windows to operate properly; (4) maintaining all electrical equipment and plumbing pipes and fixtures to operate properly; (5) maintaining all fire and safety equipment as required by local code; (6) maintaining roof and exterior of building to prevent leaking water.

Should, at any time during the term of this Lease, hazardous material, chemical, or odor be discovered in the leased building in amounts determined by the Mississippi Department of Environmental Quality to be unacceptable, the Lessor will have sixty (60) days from the date of written notice by the Lessee to satisfactorily dispose of the hazardous material, chemical, or odor or the Lessee may terminate the Lease after sixty (60) days with no penalty to the Lessee.

SECTION 15. Should the demised building be totally or substantially destroyed by fire, the elements or otherwise, so as to render the demised building untenable, either party shall have the option to cancel the remaining portion of this Lease or of any extended term or period hereof. Lessee shall have no obligation to pay rent of any nature so long as the demised building is untenable. Lessor may offer comparable space under the same terms and conditions as this Lease, subject to Lessee's approval.

SECTION 16. Failure on the part of the Lessee to pay any installment of rent when the same comes due and payable, or failure of either Lessee or Lessor promptly and faithfully to keep and perform each and every covenant agreed and stipulated herein on the part of the Lessee or Lessor to be kept and performed, shall at the option of the Lessor or Lessee cause a forfeiture of this Lease.

Nothing contained in the foregoing paragraph shall be construed to waive either party's right to cancel this Lease in the event of any forfeiture or breach on the part of the other party hereto, all of which rights or cancellation are herein specifically reserved.

Prior to a declaration of forfeiture for default in payment of rent or additional rent, Lessor shall give to Lessee a Notice in writing thirty (30) days prior thereto in the manner provided for by Section 8 hereof, during which time Lessee may purge itself of the grounds of forfeiture by paying such rent. As to default by Lessee in performing covenants other than for payment of rent prior to a declaration of forfeiture, Lessor shall give to Lessee a notice in writing thirty (30) days prior thereto in the manner provided for by Section 8 during which time Lessee may purge itself of the grounds of forfeiture by curing the stated grounds of forfeiture within such thirty (30) days or within such longer term as may be reasonably necessary to cure such defect.

SECTION 17. Lessor covenants that the Lessee, on paying the rent herein determined, and performing the covenants and agreements hereof, shall peaceably have, hold and enjoy the demised premises and all rights, easements and privileges belonging or in anywise pertaining thereto, during the full term of this Lease, and any extension thereof.

SECTION 18. Lessor will provide paved parking area sufficient for the operation of said agencies on the leased premises, without additional cost to Lessee. Lessor will maintain such parking lot throughout the term of this Lease and any extension thereof in a serviceable condition. Lessor will reserve \_\_\_\_\_ spaces exclusively for the Lessee.

Lessor agrees to keep all parking areas provided to Lessee clean and free of trash and debris.

SECTION 19. Lessor hereby grants to Lessee the right and option to extend this Lease for a further term of up to three (3) months commencing at the expiration of the original term; provided, however, that written notice of the exercise of such option shall be given by Lessee to Lessor at least thirty (30) days before the expiration of the term of this Lease. Such extension shall be at the same annual rental rate as that provided herein for the last year of the original term and the actual rental amount shall be prorated according to the length of the additional term. All other terms and conditions set out herein shall be in effect during the term of the extension.

SECTION 20. Any request for amendments or modifications to this Lease by the Lessor or Lessee must be listed below in this section or on an addendum to this Lease as noted by listing such addendum in this section. Approval of any amendments or modifications of this Lease will become valid and made a part of this Lease only when approved by the Division of General Services, a/k/a Department of Finance and Administration through the Bureau of Building, Grounds and Real Property Management, and the Public Procurement Review Board, as evidenced by the signature of its Administrator.

Approved \_\_\_\_\_ Disapproved \_\_\_\_\_ Date: \_\_\_\_\_

Division of General Services, a/k/a Department of Finance and Administration through the Bureau of Building, Grounds and Real Property Management

By: \_\_\_\_\_ Title: RPM Director

SECTION 21. This Lease will not become valid and binding until approved in writing by the Division of General Services, a/k/a Department of Finance and Administration through the Bureau of Building, Grounds and Real Property Management, and the Public Procurement Review Board. No amendment to or modification of this Lease shall become valid and binding until approved in writing by the Division of General Services, a/k/a Department of Finance and Administration through the Bureau of Building, Grounds and Real Property Management, and the Public Procurement Review Board

SECTION 22. Lessor covenants that the demised premises included in this Lease are in compliance with the Americans with Disabilities Act, 1990, Federal and State laws, and local ordinances. At the sole discretion of the Lessee, failure to comply may result in the termination of this Lease by Lessee.



The Lessor warrants that the buildings covered by this Lease comply with all state and local building codes and all zoning ordinances and subdivision covenants.

SECTION 23. The Lessor or Lessors herein warrant that this Lease will be in compliance with Section 25-4-103 and 25-4-105 of the Mississippi Code of 1972, as amended. Should it be determined during the term of this Lease that the Lessor or Lessors are not in compliance with said statutes, the Lessee may terminate this Lease with a written thirty (30) days notice to Lessor with no penalty to the Lessee.

SECTION 24. The Lessee and Lessor may terminate this Lease, upon mutual agreement. The Lessee and Lessor shall agree in writing as to the said termination, specifying the part of the Lease terminated and when the termination becomes effective, with notification to the Bureau of Building, Grounds and Real Property Management. This Section does not affect the Sections herein that pertain to default and/or failure to comply with Lease provisions and pertains only to cancellation and/or termination of Lease, upon mutual agreement of the parties.

SECTION 25. "Contractor" in this Section shall mean Professional, Vendor, Architect, Engineer, Lessor, etc.

The State agrees to make payment in accordance with Mississippi law on "Timely Payments for Purchases by Public Bodies", Section 31-7-301, et seq. of the Mississippi Code of 1972, as amended, which generally provides for payment of undisputed amounts within forty-five (45) days of receipt of the invoice.

The State requires the Contractor to submit invoices electronically throughout the term of the agreement. Vendor invoices shall be submitted to the state agency using the processes and procedures identified by the State. Payments by state agencies using the Statewide Automated Accounting System (SAAS) shall be made and remittance information provided electronically as directed by the State. These payments shall be deposited into the bank account of the Contractor's choice. Contractor understands and agrees that the State is exempt from the payment of taxes. All payments shall be in United States currency.

No payment, including final payment, shall be construed as acceptance of defective or incomplete work, and the Contractor shall remain responsible and liable for full performance.

The Contractor represents and warrants that it will ensure its compliance with the Mississippi Employment Protection Act, Section 71-11-1, et seq of the Mississippi Code Annotated (Supp 2008) and will register and participate in the status verification system for all newly hired employees. The term "employee" as used herein means any person that is hired to perform work within the State of Mississippi. As used herein, "status verification system" means the Illegal Immigration Reform and Immigration Responsibility Act of 1996 that is operated by the United States Department of Homeland Security, also known as the E-Verify Program, or any other successor electronic verification system replacing the E-Verify Program. The Contractor agrees to maintain records of such compliance, and upon request of the State and approval of the Social Security Administration or Department of Homeland Security, where required, to provide a copy of each such verification to the State. The Contractor further represents and warrants that any person assigned to perform services hereunder meets the employment eligibility requirements of all immigration laws of the State of Mississippi. The Contractor understands and agrees that any breach of these warranties may subject the Contractor to the following: (a) termination of this Agreement and ineligibility for any state or public contract in Mississippi for up to three (3) years, with notice of such cancellation/termination being made public, or (b) the loss of any license, permit, certification or other document granted to the Contractor by an agency, department or governmental entity for the right to do business in Mississippi for up to one (1) year, or (c) both. In the event of such termination/cancellation, the Contractor would also be liable for any additional costs incurred by the State due to the contract cancellation or loss of license or permit."

IN WITNESS WHEREOF, this Lease Agreement has been duly executed in duplicate originals on the date hereinabove set forth.

LESSOR (Individual or Corporation)

By: \_\_\_\_\_

LESSEE

By: \_\_\_\_\_

"This Lease was approved on \_\_\_\_\_ by the Public Procurement Review Board, and regardless of any other date shown within, this Lease is not effective before \_\_\_\_\_, as stated in Section 1 and pursuant to Section 21 of this Lease.



STATE OF MISSISSIPPI STANDARD ESCALATION AGREEMENT

RPM 5A

Amendment to State of Mississippi Standard Lease Form RPM-5 dated \_\_\_\_\_ between  
 \_\_\_\_\_, Lessor, and \_\_\_\_\_, Lessee.

Only those Conditions #1 – 4 below initialed by Lessor and Lessee are applicable to this Lease. Condition #5 may not be excluded from this amendment. All increases in expense charged by Lessor to Lessee will be charged as additional rent. "Additional Rent" shall mean the amount of the Lessee's proportionate share of the following expenses for a particular year. Any escalation charged in a partial year of the lease will be prorated to the Lessee's total days of occupancy.

Initial:

Lessor \_\_\_\_\_ Lessee \_\_\_\_\_

Condition 1: Lessor shall pay all utility service charges assessed against the demised premises during the term of this Lease as set out in Section 4 of this Lease. Lessee agrees to pay any increase in utilities over the total utilities assessed during the first twelve (12) months of the primary term of the lease subject to the limitation in Condition 5 of this agreement, said sum to be charged to Lessee as additional rent. Prior to payment of such additional sums, Lessor shall provide Lessee and the Division of Real Property Management with copies of all utility service charge statements, and all supporting calculations, as confirmation of such amounts due. Upon receipt of satisfactory documentation of such charges, and approval from the Division of Real Property Management, Lessee shall pay to Lessor such additional sums within sixty (60) days.

Condition 2: Lessor shall pay all janitorial service charges assessed against the demised premises during the term of this Lease as set out in Section 5 of this Lease. Lessee agrees to pay any increase in janitorial service over the total janitorial service assessed during the first twelve (12) months of the primary term of the lease subject to the limitation in Condition 5 of this agreement, said sum to be charged to Lessee as additional rent. Prior to payment of such additional sums, Lessor shall provide Lessee and the Division of Real Property Management with copies of all janitorial service charge statements, and all supporting calculations, as confirmation of such amounts due. Upon receipt of satisfactory documentation of such charges, and approval from the Division of Real Property Management, Lessee shall pay to Lessor such additional sums within sixty (60) days.

Condition 3: Lessor shall pay all taxes assessed against the demised premises during the term of this Lease as set out in Section 6 of this Lease. Lessee agrees to pay any increase in taxes over the total taxes assessed during the first twelve (12) months of the primary term of the lease subject to the limitation in Condition 5 of this agreement, said sum to be charged to Lessee as additional rent. Prior to payment of such additional sums, Lessor shall provide Lessee and the Division of Real Property Management with copies of all tax statements, and all supporting calculations, as confirmation of such amounts due. Upon receipt of satisfactory documentation of such charges, and approval from the Division of Real Property Management, Lessee shall pay to Lessor such additional sums within sixty (60) days.

Condition 4: Lessor shall pay all property insurance premiums assessed against the demised premises during the term of this Lease. Lessee agrees to pay any increase in property insurance premiums over the total property insurance premiums during the first twelve (12) months of the primary term of the lease subject to the limitation in Condition 5 of this agreement, said sum to be charged to Lessee as additional rent. Prior to payment of such additional sums, Lessor shall provide Lessee and the Division of Real Property Management with copies of all statements, and all supporting calculations, as confirmation of such amounts due. Upon receipt of satisfactory documentation of such charges, and approval from the Division of Real Property Management, Lessee shall pay to Lessor such additional sums within sixty (60) days.

Condition 5: Lessor agrees that the total additional rent due by the Lessee as payment for any increase as provided by Sections 1 – 4 of this amendment, shall not exceed 10% of the total cost of the expenses included in this lease incurred during the first twelve (12) months of this lease.

**BUREAU OF BUILDING, GROUNDS AND REAL  
PROPERTY MANAGEMENT  
STATE AGENCY LEASING IN NON-STATE-OWNED  
SPACE**

---

**CONDITIONS OF LEASE PROPOSAL FOR NEW CONSTRUCTION**

**RPM-2A**

As builder/contractor/owner, I understand that the submittal of my proposal to lease space to a state agency in a building I intend to build/renovate/remodel will be considered by the agency in the same manner as lease proposals for existing buildings.

I understand that no agency of the state, or employee of the state, without the prior approval of the Public Procurement Review Board and the Office of General Services, has the authority to approve terms of a lease which involves remodeling of a building for use by an agency of the state. Also, the construction/renovating of a building for a state agency requires specific legislation to do so. Neither the Public Procurement Review Board nor the Office of General Services can provide the necessary legislation.

I understand that the agency, when considering my proposal for a lease in a building I intend to construct/remodel/renovate, will view this building as if completed and available for lease to parties other than the state agency receiving my proposal, whether the specifications used for the building were designed by the builder/contractor/owner or other party.

I understand that if the building I intend to construct/remodel/renovate is not completed per the specifications listed in my proposal by the date specified in the lease, the state agency that executed the lease will have the option to (1) reduce the rent proportionately by the number of days after the date specified in the lease that the agency occupies the building, or, (2) terminate the lease. Should the lease be terminated, neither the state agency that executed the lease, nor any other state agency will be liable to pay any of the rent or the cost incurred by the builder/contractor/owner of the building for construction/remodeling/renovation.

I understand that should my proposal be accepted by the agency that it was submitted to, and should my proposal be approved by the Public Procurement Review Board, neither the agency executing the lease, nor other agency of the State, will be obligated to occupy this space for any term beyond the dates specified in the lease.

I understand that neither the agency executing the lease, nor other agency of the State, will be obligated to pay the builder/contractor/owner of the building any amount other than the rent specified in the lease for the term of their occupancy of the building, whether or not this amount fully reimburses the builder/contractor/owner for the cost of the construction/remodeling/renovations of the building.

I understand that no condition of the lease can provide for any lump-sum payment for construction/remodeling/renovation or any payments in advance other than for rent, which shall be prorated in equal payments through the term of the lease.

I understand that should I elect not to sign this agreement, either the agency to which my proposal was submitted or the Division of Real Property Management may refuse to accept my proposal for lease.

By evidence of my signature, I acknowledge that I have read the conditions stated above before submittal of my proposal, and that I fully understand these conditions.

---

Builder/Contractor/Owner

---

Date

## Attachment C

### CONDITIONS FOR SUBMITAL OF LEASE PROPOSAL

RPM-2

This section filled in by agency representative requesting proposal.

DEADLINE FOR SUBMITTING PROPOSAL: TIME \_\_\_\_\_ p.m. DAY \_\_\_\_\_ DATE \_\_\_\_\_

ADDRESS TO RECEIVE PROPOSAL: \_\_\_\_\_

AGENCY REQUESTING PROPOSAL: \_\_\_\_\_

AGENCY CONTACT FOR PROPOSAL: \_\_\_\_\_

---

### **THIS LEASE PROPOSAL IS NOT A BID AND IS NOT SUBJECT TO THE BID LAWS OF THE STATE OF MISSISSIPPI.**

As the owner/agent of the property offered for lease by this proposal, I understand that acceptance of my proposal is not contingent solely on the contact rent quoted herein. The costs for utilities, janitorial services, parking, remodeling, moving expense, telephone hook-up, etc. will all be considered in determining the TOTAL COST of the lease. Building condition, location, adaptability, and accessibility for the handicapped will all be factors in determining the most SUITABLE space for the agency requesting this proposal.

I understand that my building must meet the minimum requirements for accessibility as described by the Americans with Disabilities Act of 1990. If my building does not meet the minimum requirements for accessibility determined necessary by the agency, my proposal may be declared unacceptable.

As owner/agent of the property offered for lease by this proposal, I have examined the proper authority for the agency requesting this proposal to obtain all the specifications the agency has determined as necessary to qualify as SUITABLE space. I understand that the agency has possession of the manual which states the policy and procedures all state agencies must follow when procuring leased space and that the agency can provide me a copy of this manual at my request. I have discussed these procedures with a member of the agency and I understand these procedures for leasing property.

As owner/agent of the property offered for lease by this proposal, I understand that having delivered this proposal to the agency prior to the deadline the agency has imposed, my proposal of rent cannot be changed or amended in any manner, unless the agency, by written notice to me, has informed me that all proposals received were determined to be unacceptable, and that the agency is again requesting proposals for leases.

The space offered for lease by submittal of my proposal should be held available to the agency for a period not less than 60 days from the date listed herein as the deadline for receiving lease proposals. As owner/agent of the property offered for lease by this proposal, I understand that if I cannot hold this property available for this 60 day period the agency may consider my proposal as unacceptable.

Only those proposals submitted to the requesting agency by completion of pages 1-4 of this form will be considered. All proposals are to be submitted in a sealed envelope addressed to the agency requesting this proposal to the attention of the agency contact, and identified on the front of the envelope as "PROPOSAL FOR LEASE".

By evidence of my signature, I acknowledge that I have read the conditions stated above before submittal of my proposal and that I fully understand these conditions. I warrant that the owner(s) of this property will not be in violation of Sections 25-4-103 and 25-4-105 of the Mississippi Code by leasing this property to a state agency.

Signature Owner/Agent

Date Submitted

This section filled in by agency representative:

The building described in this proposal was inspected by \_\_\_\_\_ (Name)

\_\_\_\_\_ for the agency accompanied by \_\_\_\_\_ (Name)

for the owner on \_\_\_\_\_ (Date). As a result of this inspection, I have found the information submitted by this proposal to be

☐ correct or ☐ in error as described by attachment.

---

Signed (Agency Representative)

RPM2 (Page 1 of 4)  
**PROPOSAL FOR LEASE**    RPM-2

(This proposal form must be completed by the owner/agent of the property.)

NAME OF PROPERTY OWNER \_\_\_\_\_  
ADDRESS \_\_\_\_\_  
NAME OF PROPERTY AGENT \_\_\_\_\_  
ADDRESS \_\_\_\_\_  
SUBMITTED TO \_\_\_\_\_  
STATE AGENCY/DEPARTMENT \_\_\_\_\_  
DIVISION \_\_\_\_\_  
TYPE OF SPACE ☐ OFFICE ☐ STORAGE/WAREHOUSE ☐ OTHER ☐  
SPACE IS: ☐ EXISTING ☐ UNDER CONSTRUCTION ☐ TO BE CONSTRUCTED  
DATE OF COMPLETION \_\_\_\_\_  
ADDRESS OF SPACE OFFERED \_\_\_\_\_  
DESCRIPTION OF BUILDING: GROSS SQUARE FEET \_\_\_\_\_ AGE \_\_\_\_\_ TYPE OF CONSTRUCTION \_\_\_\_\_  
ORIGINAL USE \_\_\_\_\_ PRESENT USE \_\_\_\_\_  
LAST DATE REMODELED \_\_\_\_\_ (Attach Description)  
LAST DATE REPAIRED \_\_\_\_\_ (Attach Description of Repairs)  
ROOF TYPE \_\_\_\_\_ LAST DATE SERVICED \_\_\_\_\_  
A/C TYPE \_\_\_\_\_ AGE \_\_\_\_\_ LAST DATE SERVICED \_\_\_\_\_  
HEAT TYPE \_\_\_\_\_ AGE \_\_\_\_\_ LAST DATE SERVICED \_\_\_\_\_  
CEILING HEIGHT \_\_\_\_\_ TYPE \_\_\_\_\_  
INTERIOR WALLS: ☐ DRY WALLS ☐ PLASTER ☐ PANEL ☐ OTHER \_\_\_\_\_  
LAST DATE PAINTED OR PAPERED \_\_\_\_\_  
FLOOR COVERING: ☐ CARPET ☐ TILE ☐ OTHER \_\_\_\_\_ LAST DATE INSTALLED \_\_\_\_\_  
ELECTRICAL OUTLETS: # PER ROOM \_\_\_\_\_ (Average)  
LIGHTING: TYPE \_\_\_\_\_  
NUMBER OF BATHROOMS: PUBLIC \_\_\_\_\_ RESERVED \_\_\_\_\_ AGE OF FIXTURES: \_\_\_\_\_  
ACCESSIBLE TO HANDICAPPED: ☐ YES ☐ NO  
IF NO: I WILL MAKE THE NECESSARY IMPROVEMENTS TO THE SPACE AS REQUIRED BY THE AGENCY TO MEET THE MINIMUM REQUIREMENTS AS DESCRIBED BY THE AMERICANS WITH DISABILITIES ACT 1990. ☐ YES ☐ NO  
DOES THIS BUILDING CONTAIN ASBESTOS? ☐ YES ☐ NO IS THE ASBESTOS NON-FRIABLE? ☐ YES ☐ NO  
IF YES, DESCRIBE BY LOCATION: \_\_\_\_\_  
TOTAL RENTABLE SQUARE FEET \_\_\_\_\_ (OFFERED FOR LEASE)  
1ST FLOOR \_\_\_\_\_ SQ. FT. OTHER \_\_\_\_\_ SQ. FT.  
NET USABLE SQ. FT.: OFFICE \_\_\_\_\_  
(Measured per RPM STORAGE \_\_\_\_\_  
Policy, Page 11 in Manual) WAREHOUSE \_\_\_\_\_  
OTHER \_\_\_\_\_  
COMMON AREA \_\_\_\_\_ (Halls, public restrooms, elec./jan. closet, elevator, stairwell, etc.)  
TOTAL NET USABLE SQ. FT.: \_\_\_\_\_ (Do not include common areas or area not reserve  
exclusively for agency's business.)

**BUREAU OF BUILDING, GROUNDS AND REAL PROPERTY  
MANAGEMENT  
STATE AGENCY LEASING IN NON-STATE-OWNED SPACE**

---

RPM2 (Page 2 of 4)

CONTRACT RENT: \_\_\_\_\_ LEVEL \_\_\_\_\_ ESCALATES # OF YEARS OFFERED \_\_\_\_\_  
(Attach Rent Schedule as Below for each Year if Escalating)

ANNUAL \$ AMOUNT: \$ \_\_\_\_\_ PAID: \_\_\_\_\_ MO \_\_\_\_\_

\$ AMOUNT PER SQ. FT.: (Annual Rent - Square Feet Leased)

ANNUAL RENT - TOTAL AREA \$ \_\_\_\_\_ YR.

ANNUAL RENT - NET USABLE AREA \$ \_\_\_\_\_ YR.

(Measured per RPM Policy)

-----  
UTILITIES: (Elec., Gas, Water, Sewer, Trash) ☐ INCLUDED ☐ NO

ALLOWANCE IF INCLUDED IN RENT: \$ \_\_\_\_\_ YR.

ESTIMATED IF NOT INCLUDED: \$ \_\_\_\_\_ YR.

(Previous yr's cost is acceptable)

JANITORIAL COST: (Labor, Supplies) ☐ INCLUDED ☐ NOT INCLUDED

ALLOWANCE IF INCLUDED IN RENT: \$ \_\_\_\_\_ Year

(Attach a schedule of services, days, time, who furnishes supplies.)

OTHER COST NOT INCLUDED IN RENT: \_\_\_\_\_

MAINTENANCE: LEASED AREA \_\_\_\_\_ COMMON AREA \_\_\_\_\_ BOTH \_\_\_\_\_

-----  
(Fill in if Expenses are Included in Rent)

ESCALATIONS: \_\_\_\_\_ YES \_\_\_\_\_ NO EXPENSE STOP: \$ \_\_\_\_\_ SQ. FT.

Escalations to be based on indexes are not acceptable. Base year will be the year the lease originated.

PRESENT COST OF EACH EXPENSE: (Total building or pro-rate)

\$ \_\_\_\_\_ UTILITIES: \$ \_\_\_\_\_ JANITORIAL \$ \_\_\_\_\_ ADVALOREM TAX  
\$ \_\_\_\_\_ PROPERTY INSURANCE \_\_\_\_\_ MAINTENANCE CONTRACTS

TOTAL ESCALATIONS for expenses cannot exceed 10% of the cost incurred during the first year of the lease. (Proper receipts of payments for each item of escalation must be provided to the Lessee and the Division of Real Property Management prior to being charged as additional rent.)

-----  
NEW PAINT IN RENT: \_\_\_\_\_ YES \_\_\_\_\_ NO EXTERIOR \_\_\_\_\_ INTERIOR

NEW FLOOR COVERING IN RENT: \_\_\_\_\_ YES \_\_\_\_\_ NO TYPE \_\_\_\_\_

REMODEL TO LESSEE'S SPECIFICATIONS: \_\_\_\_\_ YES \_\_\_\_\_ NO

TIME TO COMPLETE REMODELING: \_\_\_\_\_

COST FOR HANDICAP ACCESSIBILITY: \_\_\_\_\_

TOTAL COST TO REMODEL: \_\_\_\_\_ (Attach Specifications)

(If cost exceeds \$4.00 sq. ft., "Conditions of Lease Proposal for New Construction" must be included.) Show that portion of this cost attributable to Handicap Accessibility requirements.

COST INCLUDED IN RENT: \_\_\_\_\_ YES \_\_\_\_\_ NO

THIS PROPERTY IS LOCATED IN A FLOODPLAIN ZONE: \_\_\_\_\_ A, \_\_\_\_\_ B, \_\_\_\_\_ C ZONE (Certified by Engineer)

I WILL PROVIDE FLOOD INSURANCE FOR THE AGENCY AS REQUIRED BY THE STATE'S FLOODPLAIN POLICY:  
\_\_\_\_\_ YES \_\_\_\_\_ NO



**BUREAU OF BUILDING, GROUNDS AND REAL PROPERTY MANAGEMENT**  
**STATE AGENCY LEASING IN NON-STATE-OWNED SPACE**

---

RPM2 (Page 3 of 4)

PARKING PROVIDED FOR AGENCY: \_\_\_\_\_YES \_\_\_\_\_NO  
NUMBER OF SPACES RESERVED FOR AGENCY: \_\_\_\_\_  
PARKING ON SITE \_\_\_\_\_ OR PROXIMITY TO SITE \_\_\_\_\_  
PARKING OWNED BY: \_\_\_\_\_ LESSOR \_\_\_\_\_ OTHER \_\_\_\_\_  
COST IN RENT: \_\_\_\_\_ YES \_\_\_\_\_ NO  
COST IN ADDITION TO RENT: \$ \_\_\_\_\_ /YEAR.= \$ \_\_\_\_\_ PER SPACE

**ONLY THE STATE'S STANDARD LEASE FORM WILL BE ACCEPTED FOR OFFICE SPACE.**

I warrant that this building will be in good repair on the 1st date of occupancy and that it meets or exceeds all state and local building codes, fire and safety regulations, and zoning ordinances. \_\_\_\_\_ YES \_\_\_\_\_ NO (If "No" explain on attachment.)

DISCLOSURE of ALL owners, partnerships, or corporate members holding an interest in this property other than the owner/agent listed herein.

---

The owner(s) of this property warrant that the leasing of this property to a state agency will not be in violation of Sections 25-4-103 and 25-4-105 of the Mississippi Code.

The owner(s) of this property have identified themselves as belonging to one or more of the following categories:

\_\_\_\_\_ American Indian \_\_\_\_\_ Hispanic \_\_\_\_\_ Black \_\_\_\_\_ Asian \_\_\_\_\_ Female \_\_\_\_\_ Small Business

The owner(s) of this property understand that the purpose of identification by one or more of the above categories is to provide the agency with information concerning minority/small business status. This information will not be used in the analysis of the proposal.

If none of the above categories are marked, the owners will not be identified as a minority/small business.

This proposal is submitted by \_\_\_\_\_ who is the \_\_\_\_\_ OWNER \_\_\_\_\_ AGENT of the property offered for lease by this proposal. The space offered for lease will be held available for the agency until (Date).

\_\_\_\_\_  
Signature Owner/Agent

\_\_\_\_\_  
Date

\_\_\_\_\_  
Address

\_\_\_\_\_  
Phone Number

Other Pertinent Information About Your Property May be Attached to this Proposal.

Attach two exterior photos and two interior photos of the building.

Attach a sketch of the floorplan with dimensions as measured by RPM policy (Page 17 of the Policy and Procedure Manual.)

**BUREAU OF BUILDING, GROUNDS AND REAL PROPERTY MANAGEMENT**  
**STATE AGENCY LEASING IN NON-STATE-OWNED SPACE**

---

RPM2 (Page 4 of 4)



# Exhibit D

## BUREAU OF BUILDING, GROUNDS AND REAL PROPERTY MANAGEMENT STATE AGENCY LEASING IN NON-STATE OWNED SPACE

---

### CONDITIONS OF LEASE PROPOSAL FOR NEW CONSTRUCTION

RPM-2A

As builder/contractor/owner, I understand that the submittal of my proposal to lease space to a State Agency in a building I intend to build/renovate/remodel will be considered by the Agency in the same manner as lease proposals for existing buildings.

I understand that no Agency of the State, or employee of the State, without prior approval of the Public Procurement Review Board and the Office of General Services, has the authority to approve terms of a lease which involves remodeling of a building for use by an Agency of the State. Also, the construction/renovating of a building for a State Agency requires specific legislation to do so. Neither the Public Procurement Review Board nor the Office of General Services can provide the necessary legislation.

I understand that the Agency, when considering my proposal for a lease in a building I intend to construct/remodel/renovate, will view this building "as if completed" and available for lease to parties other than the State Agency receiving my proposal, whether the specifications for the building were designed by the builder/contractor/owner or other party.

I understand that if the building I intend to construct/remodel/renovate is not completed per the specifications listed in my proposal by the date specified in the lease, the State Agency that executed the lease will have the option to (1) reduce the rent proportionately by the number of days after the date specified in the lease that the Agency occupies the building, or, (2) terminate the lease. Should the lease be terminated, neither the State Agency that executed the lease, nor any other State Agency will be liable to pay any of the rent or the cost incurred by the builder/contractor/owner of the building for construction/remodeling/renovation.

I understand that should my proposal be accepted by the Agency that it was submitted to, and should my proposal be approved by the Public Procurement Review Board, neither the Agency executing the lease, nor other Agency of the State, will be obligated to occupy this space for any term beyond the dates specified in the lease.

I understand that neither the Agency executing the lease, nor other Agency of the State, will be obligated to pay the builder/contractor/owner of the building any amount other than the rent specified in the lease for the term of their occupancy of the building, whether or not this amount fully reimburses the builder/contractor/owner for the cost of construction/remodeling/renovations of the building.

I understand that no condition of the lease can provide for any lump-sum payment for construction/remodeling/renovation or any payments in advance other than for rent, which shall be prorated in equal payments through the term of the lease.

I understand that should I elect not to sign this agreement, either the Agency to which my proposal was submitted or the Division of Real Property Management may refuse to accept my proposal for lease.

By evidence of my signature, I acknowledge that I have read the conditions stated above before submittal of my proposal, and that I fully understand these conditions.

\_\_\_\_\_  
Builder/Contractor/Owner

\_\_\_\_\_  
Date

# Exhibit E

## BUREAU OF BUILDING, GROUNDS AND REAL PROPERTY MANAGEMENT STATE AGENCY LEASING IN NON-STATE OWNED SPACE

---

### HANDICAPPED ACCESSIBILITY GUIDELINES

On July 26, 1990, the Americans with Disabilities Act became a law. This law mandates that by December 1991, all activities of state and local governments must be accessible. It is recommended that all space leased by State Agencies require no less than the minimum standards listed below for existing buildings or comply fully with Section 35.150, Volume 56, No. 144 of the Federal Register, Rules and Regulations, issued by the Department of Justice, 7/26/91.

1. Wheelchair access to at least one primary entrance. Ramps must not exceed a three (3) inch rise in height for each two (2) ft. in length. It must have a minimum width of thirty-six (36) inches.
2. At least one (1) parking space allotted to the handicapped visitor and it should be clearly marked. There should be one (1) handicapped space for every twenty-five (25) parking spaces in the lot.
3. Additionally, one (1) clearly marked parking space should be reserved for each handicapped employee of the agency.
4. Curb breaks or ramp from parking to building area access.
5. Minimum exterior door opening clearance of thirty-two (32) inches.
6. Minimum corridor width of forty-eight (48) inches.
7. Elevator controls at forty-eight (48) inches from the floor for multi-story buildings. The door must open a minimum of thirty-six (36) inches. Elevator dimensions may not be less than fifty-one (51) inches front to rear and sixty-eight (68) inches side to side. (In some cases, a minimum floor area of 48" x 48" will be acceptable.)
8. At least one restroom door measuring thirty-two (32) inches wide and opening outward. Handrails must be provided per the minimum standards. Toilet seats must be seventeen (17) inches to nineteen (19) inches above the floor. Lavatories must have a rim no higher than thirty-four (34) inches above the floor with knee space extending no less than seventeen (17) inches from front to back. Stalls are optional. If used, they must meet the minimum standards. Clear turning space must be provided per the minimum standards.
9. Water fountains should have front controls, either hand operated or hand and foot operated. The fountain should not exceed thirty-six (36) inches from floor to top of spout.

These are only a few requirements for handicap accessibility. Federal guidelines for handicapped accessibility are printed in the Federal Register, "Uniform Federal Accessibility Standards". Copies may be obtained by contacting:

or

Architectural and Transportation  
Barriers Compliance Board  
Washington, DC 20202

Office of Handicapped Services

When constructing or remodeling a building for use by a State Agency, refer to the requirements as established by the Americans with Disabilities Act, and Section 35.150, Volume 56, No. 144 of the Federal Register, Rules and Regulations, issued by the Department of Justice, 7/26/91.

BUREAU OF BUILDING, GROUNDS AND REAL PROPERTY MANAGEMENT  
STATE AGENCY LEASING IN NON-STATE OWNED SPACE

Federal Register / Vol 56, No. 144 / Friday, July 26, 1991 / Rules and Regulations

35719

Subpart D -- Program Accessibility

§35.149 Discrimination prohibited.

Except as otherwise provided in §35.150, no qualified individual with a disability shall, because a public entity's facilities are inaccessible to or unusable by individuals with disabilities, be excluded from participation in, or be denied the benefits of the services, programs, or activities of a public entity, or be subjected to discrimination by any public entity.

§35.150 Existing facilities

(a) *General.* A public entity shall operate each service, program, or activity so that the service, program, or activity, when viewed in its entirety, is readily accessible to and usable by individuals with disabilities. This paragraph does not --

(1) Necessarily require a public entity to make each of its existing facilities accessible to and usable by individuals with disabilities;

(2) Require a public entity to take any action that would threaten or destroy the historic significance of an historic property; or

(3) Require a public entity to take any action that it can demonstrate would result in a fundamental alteration in the nature of a service, program, or activity or in undue financial and administrative burdens. In those circumstances where personnel of the public entity believe that the proposed action would fundamentally alter the service, program, or activity or would result in undue financial and administrative burdens, a public entity has the burden of proving that compliance with §35.150(a) of this part would result in such alteration or burdens. The decision that compliance would result in such alteration or burdens must be made by the head of a public entity or his or her designee after considering all resources available for use in the funding and operation of the service, program, or activity, and must be accompanied by a written statement of the reasons for reaching that conclusion. If an action would result in such an alteration or such burdens, a public entity shall take any other action that would not result in such an alteration or such burdens but would nevertheless ensure that individuals with disabilities receive the benefits or services provided by the public entity.

(b) *Methods.* (1) *General.* A public entity may comply with the requirements of this section through such means as redesign of equipment, reassignment of services to accessible buildings, assignment of aides to beneficiaries, home visits, delivery of services at alternate accessible sites, alteration of existing facilities and

construction of new facilities, use of accessible tolling stock or other conveyances, or any other methods that result in making its services, programs, or activities readily accessible to and usable by individuals with disabilities. A public entity is not required to make structural changes in existing facilities where other methods are effective in achieving compliance with this section. A public entity, in making alterations to existing buildings, shall meet the accessibility requirements of §35.151. In choosing among available methods for meeting the requirements of this section, a public entity shall give priority to those methods that offer services, programs, and activities to qualified individuals with disabilities in the most integrated setting appropriate.

(2) *Historic preservation programs.* In meeting the requirements of §35.150(a) in historic preservation programs, a public entity shall give priority to methods that provide physical access to individuals with disabilities. In cases where a physical alteration to an historic property is not required because of paragraph (a)(2) or (a)(3) of this section, alternative methods of achieving program accessibility include --

(i) Using audio-visual materials and devices to depict those portions of an historic property that cannot otherwise be made accessible;

(ii) Assigning persons to guide individuals with handicaps into or through portions of historic properties that cannot otherwise be made accessible; or

(iii) Adopting other innovative methods.

(c) *Time period for compliance.* Where structural changes in facilities are undertaken to comply with the obligations established under this section, such changes shall be made within three years of January 26, 1992, but in any event as expeditiously as possible.

(d) *Transition plan.* (1) In the event that structural changes to facilities will be undertaken to achieve program accessibility, a public entity that employs 50 or more persons shall develop, within six months of January 26, 1992, a transition plan setting forth the steps necessary to complete such changes. A public entity shall provide an opportunity to interested persons, including individuals with disabilities or organizations representing individuals with disabilities, to participate in the development of the transition plan by submitting comments. A copy of the transition plan shall be made available for public inspection.

(2) If a public entity has responsibility or authority over streets, roads, or walkways, its transition plan shall include a schedule for providing curb ramps or other sloped areas where pedestrian walks cross curbs, giving

priority to walkways serving entities covered by the Act, including State and local government offices and facilities, transportation, places of public accommodation, and employers, followed by walkways serving other areas.

(3) The plan shall, at a minimum --

(i) Identify physical obstacles in the public entity's facilities that limit the accessibility of its programs or activities to individuals with disabilities;

(ii) Describe in detail the methods that will be used to make the facilities accessible;

(iii) Specify the schedule for taking the steps necessary to achieve compliance with this section and, if the time period of the transition plan is longer than one year, identify steps that will be taken during each year of the transition period; and

(iv) Indicate the official responsible for implementation of the plan.

(4) If a public entity has already complied with the transition plan requirement of a Federal agency regulation implementing section 504 of the Rehabilitation Act of 1973, then the requirements of this paragraph (d) shall apply only to those policies and practices that were not included in the previous transition plan.

§35.151 New construction and alterations.

(a) *Design and construction.* Each facility or part of a facility constructed by, on behalf of, or for the use of a public entity shall be designed and constructed in such manner that the facility or part of the facility is readily accessible to and usable by individuals with disabilities. If the construction was commenced after January 26, 1992.

(b) *Alteration.* Each facility or part of a facility altered by, on behalf of, or for the use of a public entity in a manner that affects or could affect the usability of the facility or part of the facility shall, to the maximum extent feasible, be altered in such manner that the altered portion of the facility is readily accessible to and usable by individuals with disabilities, if the alteration was commenced after January 26, 1992.

(c) *Accessibility standards.* Design, construction, or alteration of facilities in conformance with the Uniform Federal Accessibility Standards (UFAS) (Appendix A to 41 CFR part 101-19.6) or with the Americans with Disabilities Act Accessibility Guidelines for Buildings and Facilities (ADAAG) (Appendix A to 28 CFR part 36 shall be deemed

## BUREAU OF BUILDING, GROUNDS AND REAL PROPERTY MANAGEMENT

### STATE AGENCY LEASING IN NON-STATE OWNED SPACE

---

to comply with the requirements of this section with respect to those facilities, except that the

Departures from particular requirements of either standard by the use of other methods shall be permitted when it is clearly evident that equivalent access to the facility or part of the facility is thereby provided.

(d) *Alterations: Historic properties.* (1) Alterations to historic properties shall comply, to the maximum extent feasible, with 4.1.7 of UFAS or 4.1.7 of ADAAG.

(2) If it is not feasible to provide physical access to an historic property in a manner that will not threaten or destroy the historic significance of the building or facility, alternative methods of access shall be provided pursuant to the requirements of 35.150.

(e) *Curb ramps.* (1) Newly constructed or altered streets, roads, and highways must contain curb ramps or other sloped areas at any intersection having curbs or other barriers to entry from a street level pedestrian walkway.

(2) Newly constructed or altered street level pedestrian walkways must contain curb ramps or other sloped areas at intersections to streets, roads, or highways

elevator exemption contained at 4.1.3(5) and 4.1.6(1)(j) of ADAAG shall not apply.

Existing buildings leased by the public entity after the effective date of this part are not required by the regulation to meet accessibility standards simply by virtue of being leased. They are subject, however, to the program accessibility standard for existing facilities in §35.150. To the extent the buildings are newly constructed or altered, they must also meet the new construction and alteration requirements of §35.151

The Department received many comments urging that the Department require that public entities lease only accessible buildings. Federal practice under section 504 has always treated newly leased buildings as subject to the existing facility program accessibility standard. Section 204(b) of the Act states that, in the area of "program accessibility, existing facilities," the title II regulations must be consistent with section 504 regulations. Thus, the Department has adopted the section 504 principles for these types of leased buildings. Unlike the construction of new buildings where architectural barriers can be avoided at little or no cost, the application of new construction standards to an existing building being leased raises the same prospect of retrofitting buildings as the use of an existing Federal facility, and the same program accessibility standard should apply to both owned and leased existing

buildings. Similarly, requiring that public entities only lease accessible space would significantly restrict the options of State and local governments in seeking leased space, which would be particularly burdensome in rural or sparsely populated areas.

On the other hand, the more accessible the leased space is, the fewer structural modifications will be required in the future for particular employees whose disabilities may necessitate barrier removal as a reasonable accommodation. Pursuant to the requirements for leased buildings contained in the Minimum Guidelines and Requirements for Accessible Design published under the Architectural Barriers Act by the ATBCB, 36 CFR 1190.34, the Federal Government may not lease a building unless it contains (1) one accessible route from an accessible entrance to those areas in which the principal activities for which the building is leased are conducted, (2) accessible toilet facilities, and (3) accessible parking facilities, if a parking area is included within the lease (36 CFR 1190.34). Although these requirements are not applicable to buildings leased by public entities covered by this regulation, such entities are encouraged to look for the most accessible space available to lease and to attempt to find space complying at least with these minimum Federal requirements